

REMARKS / ARGUMENTS

Claims 9-20 remain pending in this application. Claim 21 has been canceled without prejudice or disclaimer. No new claims have been added.

Information Disclosure Statement

The Information Disclosure Statement filed September 9, 2005 has not been acknowledged by the Examiner. Applicant requests that the Examiner initial and return the enclosed copy of the PTO-1449 Form filed September 9, 2005. A copy of the date-stamped mailroom receipt is enclosed as evidence of filing. A copy of the PTO-1449 Form is enclosed for the Examiner's convenience.

35 U.S.C. §112

The claims have been amended to overcome the rejection under 35 U.S.C. §112, second paragraph.

Double Patenting Rejection

Claims 9-21 have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims of copending Application Nos. 10/757,454, 10/777,159, 10/786,416, 10/987,157,

10/987,162, 10/600,711 and 09/500,535. Without admitting to the propriety of the rejection, Applicant submits herewith a terminal disclaimer to avoid the rejection.

Claims 9-21 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the claims of U.S. Patent No. 6,048,810. Without admitting to the propriety of the rejection, Applicant submits herewith a terminal disclaimer to avoid the rejection.

35 U.S.C. §103

Claims 9-21 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Colvin et al (U.S. Patent No. 5,637,389) in view of Ogden et al (U.S. Patent No. 5,727,336) and further in view of Harada et al (U.S. Patent No. 4,894,932). These rejections are traversed as follows.

The Examiner's attempt at combination of references fails to raise a *prima facie* case of unpatentability. The Examiner states that Colvin et al disclose a foam material having a phase change material and relies upon Ogden et al for disclosing a non-woven material. The Examiner has not explained why one of ordinary skill in the art would be motivated to combine these two references to arrive at a non-woven material having reversible enhanced thermal properties. Furthermore, the non-woven of Ogden is not a moisture transferring non-woven, but instead is an absorbent non-woven.

Appl. No. 10/626,523
Amendment dated January 23, 2006
Reply to Office Action of September 21, 2005

BAY-410-04

The claims have been amended to clarify the non-woven of the present invention which also has reversible enhanced thermal properties. As such, it is submitted that the pending claims patentably define the present invention over the cited art.

Conclusion

In view of the foregoing, Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.

By _____
Shrinath Malur
Reg. No. 34,663
(703) 684-1120